

CHAPTER 101A

EXPLOSIVE MATERIALS

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101A.1 Definitions.

As used in this chapter:

1. "*Blasting agent*" means any material or mixture consisting of a fuel and oxidizer, intended for blasting but not otherwise classified as an explosive, in which none of the finished products as mixed and packaged for use or shipment can be detonated by means of a number eight test blasting cap when unconfined.

2. "*Commercial license*" or "*license*" means a license issued by the state fire marshal pursuant to this chapter.

3. "*Explosive*" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term "*explosive*" includes all materials which are classified as a class 1, division 1.1, 1.2, 1.3, or 1.4 explosive by the United States department of transportation, under 49 C.F.R. § 173.50, and all materials classified as explosive materials under 18 U.S.C. § 841, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices, cartridges for industrial guns, and overpressure devices, but does not include "*fireworks*" as defined in section 727.2 or ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

4. "*Explosive materials*" means explosives or blasting agents.

5. "*Import*" and "*importation*" means transfer into the state of Iowa.

6. "*Licensee*" means a person holding a commercial license issued by the state fire marshal pursuant to this chapter.

7. "*Magazine*" means any building or structure, other than an explosives manufacturing building, approved by the state fire marshal or the fire marshal's designated agent for the storage of explosive materials.

8. "*Overpressure device*" means any device constructed of a container or improvised container which is filled with a mixture of chemicals or sublimating materials or gases that generate an expanding gas, which is designed or constructed to cause the container to break, fracture, or rupture in a violent manner capable of causing death, serious injury, or property damage.

9. "*Permittee*" means a person holding a user's permit issued pursuant to this chapter.

10. "*Person*" means any individual, corporation, partnership, or association.

11. "*User's permit*" or "*permit*" means a permit issued by a county sheriff or chief of police of a city of ten thousand or more population, pursuant to this chapter.

[C73, 75, 77, 79, 81, §101A.1]

2008 Acts, ch 1147, §1, 2

101A.2 Commercial license — how issued — violation.

1. The state fire marshal shall issue commercial licenses for the manufacture, importation,

distribution, sale, and commercial use of explosives to persons who, in the state fire marshal's discretion are of good character and sound judgment, and have sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety. Licenses shall be issued for a period of one year, but may be issued for shorter periods, and may be revoked or suspended by the state fire marshal for any of the following reasons:

- a. Falsification of information submitted in the application for a license.
- b. Proof that the licensee has violated any provisions of this chapter or any rules prescribed by the state fire marshal pursuant to the provisions of this chapter.

2. Licenses shall be issued by the state fire marshal upon payment of a fee of sixty dollars, valid for a period of one calendar year, commencing on January 1 and terminating on December 31; however, an initial license may be issued during any calendar year for the number of months remaining in such calendar year, computed to the first day of the month when the application for the license is approved. The license fee shall be charged on a pro rata basis for the number of months remaining in the year of issue. Applications for renewal of licenses shall be submitted within thirty days prior to the license expiration date and shall be accompanied by payment of the prescribed annual fee.

3. Except as permitted in section 101A.3 and sections 101A.9 to 101A.11, it shall be unlawful for any person to willfully manufacture, import, store, detonate, sell, or otherwise transfer any explosive materials unless such person is the holder of a valid license issued pursuant to this section.

4. Commercial dealers having a federal firearms license shall be exempt from the requirement or the commercial license requirement of this chapter for importation, distribution, sale, transportation, storage and possession of smokeless powder propellants or black sporting powder propellants provided that such dealer must conform and comply to rules, or ordinances of federal, state or city authorities having jurisdiction of such powder.

[C73, 75, 77, 79, 81, §101A.2]

84 Acts, ch 1074, §1

101A.3 User's permit — how issued — violation.

1. User's permits to purchase, possess, transport, store, and detonate explosive materials shall be issued by the sheriff of the county or the chief of police of a city of ten thousand population or more where the possession and detonation will occur. If the possession and detonation are to occur in more than one county or city, then such permits must be issued by the sheriff or chief of police of each of such counties or cities, except in counties and cities in which the explosives are possessed for the sole purpose of transporting them through such counties and cities. A permit shall not be issued unless the sheriff or chief of police having jurisdiction is satisfied that possession and detonation of explosive materials is necessary to the applicant's business or to improve the applicant's property. Permits shall be issued only to persons who, in the discretion of the sheriff or chief of police, are of good character and sound judgment, and have sufficient knowledge of the use and handling of explosive materials to protect the public safety. The state fire marshal shall prescribe, have printed, and distribute permit application forms to all local permit issuing authorities.

2. The user's permit shall state the quantity of explosive materials which the permittee may purchase, the amount the permittee may have in possession at any one time, the amount the permittee may detonate at any one time, and the period of time during which the purchase, possession, and detonation of explosive materials is authorized. The permit shall also specify the place where detonation may occur, the location and description of the place where the explosive materials will be stored, if such be the case, and shall contain such other information as may be required under the rules and regulations of the state fire marshal. The permit shall not authorize purchase, possession, and detonation of a quantity of explosive materials in excess of that which is necessary in the pursuit of the applicant's business or the improvement of the permittee's property, nor shall such purchase, possession, and detonation be authorized for a period longer than is necessary for the specified purpose. In no event shall the permit be valid for more than thirty days from date of issuance but it may be renewed upon proper showing of necessity.

3. The user's permit may be revoked for any of the reasons specified in section 101A.2, subsection 1, for suspension or revocation of a commercial license.

4. It shall be unlawful for a person to willfully purchase, possess, transport, store, or detonate explosive materials unless such person is the holder of a valid permit issued pursuant to this section or a valid license issued pursuant to section 101A.2.

5. The sheriff or the chief of police shall charge a fee of three dollars for each permit issued. The money collected from permit fees shall be deposited in the county treasury or the general fund of the city.

[C73, 75, 77, 79, 81, §101A.3]

83 Acts, ch 123, §53, 209; 84 Acts, ch 1074, §2

101A.4 Refusal to grant license or permit — appeal.

1. Judicial review of the action of the state fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

2. A person who is refused issuance of a user's permit by a local permit issuing authority may appeal the authority's decision to the county board of supervisors or the city council of the county or city where the permit is sought, and de novo to the district court.

[C73, 75, 77, 79, 81, §101A.4]

84 Acts, ch 1074, §3; 2003 Acts, ch 44, §114

101A.5 Rules.

The state fire marshal shall adopt rules pursuant to chapter 17A pertaining to the manufacture, transportation, storage, possession, and use of explosive materials. Rules adopted by the state fire marshal shall be compatible with, but not limited to, the national fire protection association's pamphlet number 495 and federal rules pertaining to commerce, possession, storage, and use of explosive materials. Such rules shall:

1. Prescribe reasonable standards for the safe transportation and handling of explosive materials so as to prevent accidental fires and explosions and prevent theft and unlawful or unauthorized possession of explosive materials.

2. Prescribe procedures and methods of inventory so as to assure accurate records of all explosive materials manufactured or imported into the state and records of the disposition of such explosive materials, including records of the identity of persons to whom sales and transfers are made, and the time and place of any loss or destruction of explosive materials which might occur.

3. Prescribe reasonable standards for the safe storage of explosive materials as may be necessary to prevent accidental fires and explosions and prevent thefts and unlawful or unauthorized possession of explosive materials.

4. Require such reports from licensees, permittees, sheriffs, and chiefs of police as may be necessary for the state fire marshal to discharge the fire marshal's duties pursuant to this chapter.

5. Prescribe the form and content of license and permit applications.

6. Conduct such inspections of licensees and permittees as may be necessary to enforce the provisions of this chapter.

[C73, 75, 77, 79, 81, §101A.5]

84 Acts, ch 1074, §4; 2010 Acts, ch 1014, §12

[T] Unnumbered paragraph 1 amended

101A.6 Notice of storage required.

A licensee shall notify the sheriff of the county and the local police authority of any city in which explosive materials will be stored, and shall also notify such authorities when the storage is terminated.

[C73, 75, 77, 79, 81, §101A.6]

101A.7 Inspection of storage facility.

The licensee's or permittee's explosive storage facility shall be inspected at least once a year by a representative of the state fire marshal's office, except that the state fire marshal

may, at those mining operations licensed and regulated by the United States department of labor, accept an approved inspection report issued by the United States department of labor, mine safety and health administration, for the twelve-month period following the issuance of the report. The state fire marshal shall notify the appropriate city or county governing board of licenses to be issued in their respective jurisdictions pursuant to this chapter. The notification shall contain the name of the applicant to be licensed, the location of the facilities to be used in storing explosives, the types and quantities of explosive materials to be stored, and other information deemed necessary by either the governing boards or the state fire marshal. The facility may be examined at other times by the sheriff of the county where the facility is located or by the local police authority if the facility is located within a city of over ten thousand population and if the sheriff or city council considers it necessary.

If the state fire marshal finds the facility to be improperly secured, the licensee or permittee shall immediately correct the improper security and, if not so corrected, the state fire marshal shall immediately confiscate the stored explosives. Explosives may be confiscated by the county sheriff or local police authority only if a situation that is discovered during an examination by those authorities is deemed to present an immediate danger. If the explosives are confiscated by the county sheriff or local police authority, they shall be delivered to the state fire marshal. The state fire marshal shall hold confiscated explosives for a period of thirty days under proper security unless the period of holding is shortened pursuant to this section.

If the licensee or permittee corrects the improper security within the thirty-day period, the explosives shall be returned to the licensee or permittee after correction and after the licensee or permittee has paid to the state an amount equal to the expense incurred by the state in storing the explosives during the period of confiscation. The amount of expense shall be determined by the state fire marshal.

If the improper security is not corrected during the thirty-day period, the state fire marshal shall dispose of the explosives and the license or permit shall be canceled. A canceled license or permit shall not be reissued for a period of two years from the date of cancellation.

[C73, 75, 77, 79, 81, §101A.7]

83 Acts, ch 123, §54, 55, 209; 84 Acts, ch 1074, §5; 86 Acts, ch 1029, §1

101A.8 Report of theft or loss required.

Any theft or loss of explosive materials, whether from a storage magazine, a vehicle in which they are being transported, or from a site on which they are being used, or from any other location, shall immediately be reported by the person authorized to possess such explosives to the local police or county sheriff. The local police or county sheriff shall immediately transmit a report of such theft or loss of explosive materials to the state fire marshal.

[C73, 75, 77, 79, 81, §101A.8]

84 Acts, ch 1074, §6

101A.9 Disposal regulated.

No person shall abandon or otherwise dispose of any explosives in any manner which might, as the result of such abandonment or disposal, create any danger or threat of danger to life or property. Any person in possession or control of explosives shall, when the need for such explosives no longer exists, dispose of them in accordance with rules prescribed by the state fire marshal.

[C73, 75, 77, 79, 81, §101A.9]

84 Acts, ch 1074, §7

101A.10 Persons and agencies exempt.

This chapter shall not apply to the transportation and use of explosive materials by the regular military or naval forces of the United States, the duly organized militia of this state, representatives of the state fire marshal, the state patrol, division of criminal investigation, local police departments, sheriffs departments, and fire departments acting in their official capacity; nor shall this chapter apply to the transportation and use of explosive

materials by any peace officer to enforce provisions of this chapter when the peace officer is acting pursuant to such authority, however, other agencies of the state or any of its political subdivisions desiring to purchase, possess, transport, or use explosive materials for construction or other purposes shall be required to obtain user's permits.

[C73, 75, 77, 79, 81, §101A.10]

98 Acts, ch 1074, §17; 2005 Acts, ch 35, §31

101A.11 Explosive materials exempt.

This chapter shall not apply to the possession or use of twenty-five pounds or less of smokeless powder, or five pounds or less of black sporting powder, provided that:

1. Smokeless powder is intended for handloading or reloading of ammunition for small arms with bores equivalent to ten gauge or less.

2. Black sporting powder is intended for handloading or reloading ammunition for small arms with bores equivalent to ten gauge or less, loading black ammunition, loading cap and ball revolvers, loading muzzle loading arms, or loading muzzle loading cannon.

3. All such powder is for private use and not for commercial resale, and in the case of black sporting powder or smokeless powder the sharing with or disposition to another person is permitted if otherwise lawful.

4. The storage, use, and handling of smokeless and black powder conforms to rules or ordinances of authorities having jurisdiction for fire prevention and suppression purposes in the area of such storage, use, and handling.

[C73, 75, 77, 79, 81, §101A.11]

101A.12 Deposit and use of fees.

The fees collected by the state fire marshal in issuing licenses shall be deposited in the state general fund.

[C73, 75, 77, 79, 81, §101A.12]

101A.13 Local ordinances.

Nothing in this chapter shall limit the authority of cities to impose additional regulations governing the storage, handling, use, and transportation of explosive materials within their respective corporate limits, however, such regulations shall be at least as stringent as and not inconsistent with the provisions of this chapter and the rules promulgated pursuant to this chapter.

[C73, 75, 77, 79, 81, §101A.13]

101A.14 Criminal penalties.

1. Any person who violates the provisions of section 101A.2, subsection 3, or section 101A.3, subsection 4, commits a public offense and, upon conviction, shall be guilty of a class "C" felony.

2. Any person who violates the provisions of section 101A.6, 101A.8 or 101A.9 or any of the rules adopted by the state fire marshal pursuant to the provisions of this chapter, commits a simple misdemeanor.

[C73, 75, 77, 79, 81, §101A.14]

84 Acts, ch 1074, §8